

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8809 of 1995

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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A A MALEK

Versus

A S SANGHVI

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Appearance:

MR SK BUKHARI for Petitioner

SERVED for Respondent No. 1, 5, 6, 7, 8

MR DA BAMBHANIA for Respondent No. 4

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 20/06/97

ORAL JUDGEMENT

Petitioner is a Class-IV servant serving under the respondent Nos. 1 to 3. Pursuant to the Circular No.1503/95 issued by the respondent No.1, the petitioner applied for appointment to the post of Driver - Class-III service under the respondent Nos. 1 to 3. Petitioner was however not selected for the post of Driver, while the respondent Nos. 6 to 8 have been appointed as Drivers. It is the say of the petitioner that though qualified, the petitioner has not been called for interview. Petitioner has further contended that without

holding any interview or giving any test, the respondent Nos. 6 to 8 are appointed as Drivers on extraneous considerations. He has further contended that appointment to the post of Driver can be made by promotion of Class-IV employee and no direct recruitment can be made to the post of Driver. However, in violation of the above Rule, the respondent No.8 has been appointed as a Driver by way of direct recruitment. The said appointments are therefore vitiated on account of malafide, favouritism and nepotism. Petitioner has alleged that the respondent Nos. 6 and 7 are appointed as Drivers because they are relatives of the existing employees serving under the respondent Nos. 1 to 3.

3. The petition has been contested by the respondent No.1 and he has made an affidavit and replied to the petition. At the time of hearing, the learned AGP Mr. Gharania has produced the Government Circular dated 2nd August, 1984, referred to in the Circular No. 1503/95, which is taken on record. The said Circular dated 2nd August, 1984, contains general instructions regarding appointment of Drivers for Government vehicles in various Government offices. The said Circular provides that appointment to the post of Driver can also be made by promotion of Class-IV employees who possess the necessary qualifications and who have passed Std.IV. This necessarily means that appointment to the post of Driver is generally made by direct recruitment by calling applications from eligible candidates. However, as an exception, the post can be filled in by promotion of Class-IV employees as aforesaid. The petitioner's contention that the post of Driver can be filled in by promotion of Class-IV employee alone, therefore, requires to be rejected, and is rejected. The said circular further provides for qualifications expected of a candidate to be appointed as a Driver. It provides, interalia, that a candidate for appointment as a Driver shall have around five years driving experience and shall possess valid driving licence; and shall possess Heavy Motor Vehicle Licence atleast for three years. Thus, the above referred Circular dated 2nd August, 1984, falsifies the contention raised by the petitioner.

4. In the present case, the respondent No.1 has stated that the petitioner did not possess a valid Motor Vehicle Licence, and the Licence that the petitioner possesses was that of Auto-rickshaw driving. Further on perusal of the application made by the petitioner, it is evident that the petitioner does not possess any

experience of motor car driving. Thus, in view of the provisions made in the above referred Circular dated 2nd August 1984, the petitioner can not be said to be eligible for appointment as Driver. The petitioner's application was, therefore, rightly rejected by the respondent No.1. The allegations of malafide, favouritism and nepotism made by the petitioner are denied by the respondents No.1. It is denied that either of the respondent Nos. 6 and 7 is related to any of the existing employees serving under the respondent nos. 1 to 3. The petitioner has not been able to establish the allegations made by him. In view of the provisions made in the Circular dated 2nd August, 1984, the challenge to the appointment of respondent No.8 by direct selection can not be sustained. The respondent No.1 has categorically denied that neither the interview was held nor any test was given. It is specifically contended that a driving test was given to each of the eligible candidates and that they were interviewed to ascertain their driving knowledge.

5. In my view, therefore, the appointment of neither of the respondents Nos. 6 to 8 as Drivers can be said to be invalid or vitiated as alleged by the petitioner. Further since the petitioner himself is not eligible for appointment as a Driver, he has no locus-standi to challenge the appointments of the respondents Nos. 6 to 8. Petition is frivolous and allegations of malafide, favouritism and nepotism have been made with a view to winning undue favour of this court. The allegations are misleading, and are made with oblique motive and for ulterior purpose.

6. Petition is, therefore, dismissed. Rule is discharged. Petitioner shall bear the costs of this petition. The cost is quantified at Rs.1500/-. Respondent No.1 shall be at liberty to recover the amount of the costs of the petition from the salary of the petitioner.

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JOSHI